

## REMARKS

Claims 3-38 remain pending. The status of the parent application has been updated as requested. In the present Office Action, claims 3-38 were rejected under 35 U.S.C. § 112, second paragraph. Claims 27-38 were rejected under 35 U.S.C. § 102(a) as being anticipated by Abraham et al., U.S. Patent No. 5,978,568 ("Abraham"). Claims 3-38 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Yu, U.S. Patent No. 5,734,865 ("Yu"). Applicants respectfully traverse these rejections and request reconsideration.

### Yu Rejection

Applicants respectfully submit that each of claims 3-38 recites a combination of features not taught or suggested by Yu. For example, each of claims 3, 15, and 27 recites a combination of features including: "assigning a first IP address of the plurality of IP addresses to a first application; assigning a second IP address of the plurality of IP addresses to a second application; and if the first application is to be isolated from the second application, including the first IP address in a first virtual network environment and including the second IP address in a second virtual network environment different from the first virtual network environment".

The Office Action alleges that Yu teaches assigning IP addresses in col. 19, lines 1-7. However, Yu teaches: "multiple virtual host systems may be used to operate in conjunction with different types of physical networks, such as Ethernet, Token Ring, FDDI, etc. or operate in conjunction with different protocols of a specific type of physical network, such as Ethernet. From an implementation point of view, it may be desirable to utilize a separate virtual LAN for each different *physical network media* (e.g. Ethernet, Token Ring, FDDI). In this instance, it is necessary to replicate *virtual network interface 100-2 within each virtual LAN and assign each such network interface, a different local host IP address value*" (Yu, col. 18, line 63-col. 19, line 7). Accordingly, Yu teaches assigning IP addresses to virtual network interfaces. Yu defines network interfaces, and virtual network interfaces, as follows: "the mechanism 100 includes a virtual network interface portion 100-2. In many respects, this interface is functionally similar to the

network interface labeled 58d connected to the physical local area network (LAN) 18. In addition to the LAN, the interface 58d includes the standard software routines (e.g. drivers) which provide a uniform interface to the Internet Protocol (IP) network layer. Thus, the interface performs all of the necessary communications between the IP layer and the physical LAN normally through an appropriate physical device handler" (Yu, col. 10, lines 15-24). Furthermore, Yu teaches: "host system 54 is configured to attach to the IP layer, a plurality of network interfaces, one for each emulating hosted operating system/virtual host which are utilized by virtual network mechanism 100 to communicate with the IP layer. When so configured, the virtual network mechanism 100 operates with the different sets of structures, each of which has the local host IP address and its own virtual host IP address" (Yu, col. 15, lines 4-11). Thus, network interfaces connect to the IP layer and provide access to the physical network device or the virtual network device associated with an operating system or virtual host. Network interfaces are not applications (see, e.g., Yu's Figure 3, where the application layer is above the IP layer and the network interfaces are below the IP layer in the protocol stack). Accordingly, Yu does not teach or suggest "assigning a first IP address of the plurality of IP addresses to a first application" or "assigning a second IP address of the plurality of IP addresses to a second application" as recited in claims 3, 15, and 27.

Furthermore, the Office Action asserts that "It is well known in the communication arts that if two IP addresses are to be isolated, they should be assigned to different network environments so that the two applications associated with the IP addresses are separated" (Office Action, page 4, lines 7-9). Applicants respectfully disagree, and traverse the allegedly well known statement. First, Yu does not teach associating IP addresses with applications (e.g. as highlighted above). Typically, IP addresses are associated with computers or other devices connected to the physical network (see, e.g., Abraham, col. 1, lines 39-42). Yu teaches assigning virtual IP address to network interfaces. Neither of these teach or suggest assigning IP addresses to applications, and thus the allegedly well known statement fails for at least this reason. Second, Applicants traverse the allegation that using IP addresses for isolation is well known, and request evidence to support the allegation. Accordingly, Yu does not teach

or suggest "if the first application is to be isolated from the second application, including the first IP address in a first virtual network environment and including the second IP address in a second virtual network environment different from the first virtual network environment" as recited in claims 3, 15, and 27.

For at least the above stated reasons, Applicants submit that each of claims 3, 15, and 27 are patentable over the cited art. Claims 4-14, being dependent from claim 3, are similarly patentable over the cited art for at least the above stated reasons as well. Claims 16-26, being dependent from claim 15, are similarly patentable over the cited art for at least the above stated reasons as well. Claims 28-38, being dependent from claim 27, are similarly patentable over the cited art for at least the above stated reasons as well. Each of claims 4-14, 16-26, and 28-38 recites additional combinations of features not taught or suggested in the cited art.

Applicants disagree with the allegation that the features of claim 4 would be obvious, as the allegation relies on the same allegedly well-known features and teachings of Yu used for claim 3. Thus, the rejection of claim 4 fails as well.

Applicants respectfully traverse that "It is well known that whether an IP address is virtual or physical is dependent on the environment the IP address is in" (Office Action, page 4, lines 13-14) and request evidence of the allegation. Furthermore, even if the well known statement is true, no motivation to combine the allegedly well known teachings has been shown and Applicants submit that such teachings, in combination with Yu's teachings still would not teach or suggest the combinations of features recited in claims 5, 6, and 8.

With regard to claim 7, the Office Action states that it "merely sets forth the definition of the global address space". Irrespective of the correctness of this statement, the Office Action does not illustrate why the features recited in claim 7 are allegedly taught in the cited art. Accordingly, the rejection fails to provide a *prima facie* case of obviousness of claim 7.

With respect to claims 9 and 10, the Office Action uses the contents of other claims to allege obviousness. It is improper to use the other claims to find a claim obvious, as such other claims are not prior art. Accordingly, the rejection fails to provide a *prima facie* case of obviousness of claims 9 and 10.

With regard to claim 11, the Office Action states that it "merely defined what the netmask and subnet are with respect to an application." Irrespective of the correctness of this statement, the Office Action does not illustrate why the features recited in claim 11 are allegedly taught in the cited art. Accordingly, the rejection fails to provide a *prima facie* case of obviousness of claim 11.

With respect to claims 12-14, the Office Action states that "it is obvious that whether or not the applications are able to communicate with each other is dependent on the capability of their IP addresses". Applicants respectfully traverse. The Office Action has not cited art that illustrates IP addresses having different "capabilities". Accordingly, the rejection fails to provide a *prima facie* case of obviousness of claims 12-14.

Applicants respectfully traverse the Office Action's allegation that the dependent claims do not recite further method steps (page 5, line 4). Various dependent claims add additional method features (e.g. claims 4, 5, 7, 9 and 10). Other dependent claims further define various features, and thus are proper dependent claims as well.

#### Abraham Rejection

Applicants respectfully submit that each of claims 27-38 recites a combination of features not taught or suggested by Abraham. For example, claim 27 recites a combination of features including: "assigning a first IP address of the plurality of IP addresses to a first application; assigning a second IP address of the plurality of IP addresses to a second application; and if the first application is to be isolated from the second application, including the first IP address in a first virtual network environment

and including the second IP address in a second virtual network environment different from the first virtual network environment".

The Office Action states that Abraham teaches a system comprising a plurality of computers connected in a network. However, such teachings are insufficient to teach or suggest the above highlighted features.

The Office Action states that claims directed to apparatus must be distinguished from the prior art in terms of structure, rather than function, citing *In re Danly*; 263 F.2d 844, 847, 120 USPQ 528, 531 (CCPA 1959). Applicants respectfully submit that the Office Action relies on a flawed understanding of Danly. Danly does indeed state that claims drawn to an apparatus must distinguish from the prior art in terms of structure rather than function. However, structural elements may include functional limitations, and these functional limitations may distinguish over the prior art.

Danly states: "claims 3 through 7 should be construed as being limited to an apparatus in which alternating current is actually applied to the tie rods, and our allowance of those claims is based on that interpretation. Claims 1 and 2 are not limited to the actual use of alternating current. Those claims call for a press structure in which the tie rods are insulated from the frame and in which the construction is 'such that alternating current may be passed through the tie rod to heat the same.'" (Danly at 847). Thus, the court in Danly allowed claims in which an apparatus was functionally limited to the use of alternating current. The court in Danly did not allow claims in which the apparatus was not functionally limited to the use of alternating current, but merely permitted its use on the claimed apparatus. The alternating current source was not recited in the non-allowed claims, and this was the reason for their non-allowance.

Accordingly, Danly does not stand for the presumption that an apparatus claim cannot be distinguished based on functional limitations. Rather, Danly states that functional limitations must be associated with a structural element. Not that the analysis of whether or not a functional limitation is associated with a structural element is

independent of whether or not section 112, paragraph six applies to that element. Applicants respectfully submit that section 112, paragraph six should not be invoked with respect to claims 27-38 of the present application.

Furthermore, claim 27 in fact recites a structure: "at least one of the computers comprises a computer readable medium storing a plurality of instructions which, when executed, implement a method...". Accordingly, the facts of *Danly* (and *Hewlett Packard v. Bausch and Lomb, Inc.*, also cited in the Office Action) do not apply. Furthermore, Applicants respectfully submit that claim 27 does not recite a manner in which the claimed apparatus is intended to be employed (see *Hewlett-Packard v. Bausch and Lomb, Inc.*), but rather claims the apparatus. Thus, claim 27 distinguishes over Abraham. Claims 28-38, being dependent from claim 27 and reciting additional combinations of features, similarly distinguish over Abraham.

#### Section 112 Rejection

The section 112 rejection alleges that the scope of the method claims is not clear, alleging that there is no functional relationship between the method steps, that it is not clear what the method tries to accomplish, and that no meaningful result is seen from the method. Applicants respectfully disagree. The scope of the method claim is clearly set forth via its explicitly recited features. The relationship between the method steps is also clear (e.g. the "defining" clause recites a plurality of IP addresses that are referred to in the "assigning clauses" and the "including clauses", etc.). Furthermore, the method results in isolation of the first application from the second application if the including clauses are performed. As to the allegation that it is not clear what the method tries to accomplish, Applicants are aware of no statute or rule that requires a method to recite what "it tries to accomplish". A method is a set of acts. Those acts, when performed, may accomplish various things. However, the claim merely recites the acts that are claimed, not what those acts accomplish.

The section 112 rejection also states that the relationship of the global address space and the virtual network environment is not clear. Applicants respectfully disagree.

Each of the independent claims clearly recites: "defining a global address space identifying a plurality of internet protocol (IP) addresses that are reserved for use in one or more virtual network environments, wherein each virtual network environment includes one or more of the plurality of IP addresses". These recitations clearly relate the global address space and the virtual network environments through the plurality of IP addresses.

With respect to claim 10, the section 112 rejection states that there is no "first subnet" and no "first netmask" in the claims. Applicants have amended claim 10 to change occurrences of "second subnet" and "second netmask" to "first subnet" and "first netmask". Applicants believe the amendment addresses the rejection.

The section 112 rejection alleges that there is no antecedent basis for "the global address space" in claim 12. Applicants respectfully disagree. Claim 12 depends from claim 3, which recites: "defining a global address space ..."

### CONCLUSION

Applicants submit that the application is in condition for allowance, and an early notice to that effect is requested.

If any extensions of time (under 37 C.F.R. § 1.136) are necessary to prevent the above referenced application(s) from becoming abandoned, Applicant(s) hereby petition for such extensions. If any fees are due, the Commissioner is authorized to charge said fees to Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C. Deposit Account No. 501505/5760-22802/LJM.

Also enclosed herewith are the following items:

- ☒ Return Receipt Postcard
- ☐ Petition for Extension of Time
- ☐ Request for Approval of Drawing Changes
- ☐ Notice of Change of Address
- ☐ Fee Authorization Form authorizing a deposit account debit in the amount of \$  
for fees (        ).
- ☐ Other:

Respectfully submitted,



\_\_\_\_\_  
Lawrence J. Merkel  
Reg. No. 41,191  
AGENT FOR APPLICANT(S)

Meyertons, Hood, Kivlin, Kowert, & Goetzel, P.C.  
P.O. Box 398  
Austin, TX 78767-0398  
Phone: (512) 853-8800

Date: 6/9/05